

Appendix V-3: Statutes Relating to Cost Recovery

Cite	Provision
RSA 146-A:3-a, I	Strict liability for containment, clean up/remediation, and removal costs directly or indirectly resulting from a discharge of oil into or onto any surface water or groundwater of the state or in a land area where oil will ultimately seep into any surface water or groundwater of the state.
RSA 146-A:3-a, I-a	Strict liability for costs relating to removal of petroleum storage facilities that are not in compliance with applicable requirements; DES can place a lien on the real property (site) to recover state costs in bringing facilities into compliance with RSA 146-A and 146-C. A lien placed under this statute has priority according to recording date.
RSA 146-A:9	Action may be brought by AGO to recover costs incurred by the State relating to oil discharges; may obtain a prejudgment attachment.
RSA 146-A:11-a, VI	Recovered funds shall be deposited into the Oil Pollution Control Fund.
RSA 146-C:9-a	DES authorized to order strictly liable person (ref. RSA 146-C:11, I) to reimburse the state for costs incurred in responding to discharge.
RSA 146-C:11, I	Strict liability for containment, clean up/remediation, and removal costs resulting from a discharge of oil or a hazardous substance into or onto any surface water or groundwater of the state or in a land area where it has seeped or may or will ultimately seep into any surface water or groundwater of the state.
RSA 146-C:12, II	Funds expended by the state under RSA 146-C from the federal LUST fund that are recovered are deposited into the NH LUST fund.
RSA 146-C:13	Strictly liable person who willfully fails to comply with DES order for investigation or corrective measures is liable for double the amount of state cost recoverable funds.
RSA 146-D:6, II	When reimbursement from the ODD Fund is made to a third party, the deductible amount is not withheld. The ODD Fund Disbursement Board may then bring legal action to recover cost of the deductible, interest and legal costs. Recovered costs are returned to the ODD fund.
RSA 146-D:7, I-a	When any liability to the ODD fund under RSA 146-D:6, 146-E:6 or 146-F:5 is not paid, the amount including interest and cost constitute a lien in favor of the ODD Fund Disbursement Board on all real and personal property or rights to property as prescribed under RSA 260:63 through RSA 260:65-a.
RSA 147-A:9, I	Strict liability for costs of containment, clean up/remediation, and removal of hazardous waste that is treated, stored, transported, or disposed of in violation of applicable requirements.
RSA 147-A:9, II	Action may be brought by AGO to recover state costs; may obtain a prejudgment attachment.

Cite	Provision
RSA 147-A:13-a, I	For sites where there is imminent threat to public health, DES may ask governor for funds under RSA 9:13-d for cleanup.
RSA 147-A:13-a, III	Action may be brought by AGO to recover state costs.
RSA 147-A:17, III	Strict liability for state costs for violation of RSA 147-A.
RSA 147-B:10, I and II	Strict liability for costs of containment, clean up/remediation, and removal of hazardous waste or hazardous material if State responds to a release or threatened release of hazardous waste/material.
RSA 147-B:10, III	Action may be brought by AG to recover state costs. Recovered funds shall be deposited into the Hazardous Waste Cleanup Fund.
RSA 147-B:10-a	Defenses against strict liability.
RSA 147-B:10-b	Authority for DES to place liens on business revenues, personal property and real property of strictly liable persons. With respect to real property (site), personal property located at the site and business revenues from the site, RSA 147-B liens constitute a first priority (superlien). For all other real property, personal property and business revenues, a lien placed under this statute has priority according to recording date.
RSA 260:63	Amount due, plus interest and costs, accrues to State.
RSA 260:64	Lien released when liability for amount assessed plus interests and costs has been satisfied or when a bond with surety in that amount is provided.
RSA 260:65	Lien on real estate may be foreclosed in accordance with laws regulating foreclosures of mortgages; lien on personal property can be foreclosed in accordance with RSA 382-A, Article 9.
RSA 260:65-a	State can write lien off as a bad debt if it is uncollectible.
RSA 511:55	An attachment in or right of interest (lien) with respect to real estate where there is no judgment involved expires by operation of law at the end of 10 years from the date of recording of the attachment or lien.
RSA 336:1, II	Rate of Interest - The annual simple rate of interest on judgments, including prejudgment interest, is determined by the state treasurer as the prevailing discount rate of interest on 52-week US Treasury bills at the last auction thereof preceding the last day of September in each year, plus 2 percentage points, rounded to the nearest tenth of a percentage point.